

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA : Criminal Action No.

v. : PX-17-0472

DAWN J. BENNETT, : Greenbelt, Maryland

Defendant. : Thursday, May 24, 2018

_____/ 3:06 P.M.

TRANSCRIPT OF DETENTION REVIEW PROCEEDINGS
BEFORE THE HONORABLE PAULA XINIS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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COMPUTER-AIDED TRANSCRIPTION OF STENOGRAPHIC NOTES

P-R-O-C-E-E-D-I-N-G-S

MR. WINDOM: We're here for detention review hearing in United States versus Dawn Bennett, Criminal Number PX-17-0472. Thomas Windom for the United States. With me at counsel table is FBI Special Agent Keith Custer.

THE COURT: Okay. Welcome to you both.

MR. HART: Good afternoon, Your Honor. Ryan Hart and Andrew Sparks on behalf of Dawn Bennett seated between us.

THE COURT: Okay. Welcome to you all.

We're here to review my detention order in Ms. Bennett's case. And as we discussed last time we were all together, primarily the reason why I'm considering possibly releasing Ms. Bennett is because of her changed medical circumstances.

And I have received the defense's supplement and I appreciate it. I have reviewed all of the medical records, including the report which I consider to be from Dr. Gerber, a review of records that then without -- he hasn't had the opportunity to physically examine Ms. Bennett, but he has had the opportunity to review those who have and the records, medical records that were memorialized. And I take his opinion to heart with regard to how he helps me interpret the record. So, I'm using it for that purpose.

I've also received the government's response to the defense submission as well as the defense reply.

1 So where I am right now is I am struggling to find
2 conditions that will reasonably assure appearance,
3 non-obstruction and no danger to the community while also
4 meeting Ms. Bennett's medical needs.

5 I think what makes sense, at least in my view, is
6 start with the government's position and any supplemental
7 information the government wishes to provide, and then I'll turn
8 to you all.

9 MR. WINDOM: Thank you, Your Honor. I think we're one
10 consent form away from being able to have enough information for
11 Your Honor to make a decision on this.

12 I do not understand why there is not a single medical
13 record in the last two months during which time
14 Ms. Bennett has been in an infirmary for at least a month of
15 this and the medical conditions on which the expert has opined
16 may have been addressed. There may have been additional
17 information.

18 And I say that not in the blind. I say that having
19 listened to some of the jail calls the defendant has made. And
20 in those jail calls, she discusses information that were they
21 truthful and accurate, were that information truthful and
22 accurate would seem to support the defendant's position that
23 Your Honor should release her on some restricted basis.

24 THE COURT: Well, one thing, let me tell you,
25 Mr. Windom, that I have learned is that the new placement that

1 Ms. Bennett is at involves a new medical provider who has not
2 been, it's my understanding, so forthcoming with the records.

3 MR. WINDOM: Yes, ma'am. And I believe that's with
4 respect to the marshals -- with a patient and as have been done
5 with the records here from the two different facilities from
6 which they acquire records. It's a waiver form that can be sent
7 to the provider and then the records can be viewed by Your Honor
8 in order to determine whether or not these medical conditions
9 have been treated or treatable or exist at all.

10 THE COURT: Well, let's ask defense, have you
11 attempted to get the records from the new provider?

12 MR. HART: Your Honor, those, those records, they
13 don't exist because they haven't performed any of those
14 diagnostic tests.

15 THE COURT: No, but I understanding is that
16 Ms. Bennett has had medical care at the current facility so
17 medical records would be generated. Did you ask for them?

18 MR. HART: We sought the medical records from the
19 Maryland University Hospital and those have not been provided to
20 us.

21 THE COURT: How about at the facility?

22 MR. HART: We've not asked for the Jessup records.

23 THE COURT: Why not?

24 MR. HART: Because, Your Honor, our position on the
25 serious condition, those haven't been treated at all. So I'd be

1 providing you a record --

2 THE COURT: But historically, one of the questions in
3 my mind has been compliance. We've had issues with Ms. Bennett,
4 some might say, undermining her medical care by not going to the
5 appointments. To the extent you have medical records which
6 belie that, which show she's going, she's participating in her
7 medical care, that would be helpful.

8 So, it's a little bit odd to me that with all the wood
9 that's been burned on things like discovery and, frankly,
10 quibbling back and forth about whether the scope of my order
11 involved argument versus just records, it would seem like
12 someone would have asked Jessup for these most recent records
13 which would show Ms. Bennett's compliance or lack thereof with
14 her medical appointments.

15 So it's a little bit strange to me that you haven't
16 asked for them.

17 MR. HART: I guess the position of defense was that we
18 didn't have -- there would be no records that were substantive
19 to her medical condition. My understanding is she is housed
20 currently in the infirmary and so --

21 THE COURT: So, how could there not be medical
22 records. She's housed at a place where every day her medical
23 care is at issue. If she's housed at an infirmary, then every
24 day there is a record generated regarding her care.

25 MR. HART: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. HART: I'm not saying there aren't medical
3 records. I'm saying to the extent that what I thought the
4 subject of today's hearing was on was some of these serious
5 medical conditions that have been potentially identified, our
6 understanding from communications with the doctor at the Wexford
7 facility, they are not doing diagnostic test on those. They're
8 not treating that.

9 THE COURT: But she's at the infirmary for that
10 reason. She's at the infirmary because the level of her care
11 warranted moving to an infirmary. It's just -- I mean, maybe
12 it's just a short -- a shortcoming on defense counsel's part to
13 not get the records, but frankly, it really doesn't make much
14 sense to me that you wouldn't do it, because it shows -- it
15 could corroborate, in fact, she needs constant care and/or would
16 corroborate that she's not getting it fast enough or in a way
17 that can accommodate her medical needs.

18 So, can you talk amongst yourselves about what you
19 might want to do to get those records for my review?

20 MR. HART: Sure, Your Honor.

21 THE COURT: Okay. Let me hear again from you,
22 Mr. Windom.

23 MR. WINDOM: Thank you, Your Honor. I'll tell you my
24 basis --

25 COURT REPORTER: Mr. Windom, can you step over to the

1 podium mic?

2 MR. WINDOM: Yes, I'm sorry.

3 We're in hearing number 13, I think, and I hate to
4 have hearing number 14, I really do, but there's not a basis
5 upon which Your Honor can conclude that the defendant should be
6 released for some sort of medical necessity when the defense has
7 only put forth records through the end of March, which there --
8 I understand there's the expert report. March 30th is the last
9 date of the medical record that was submitted here.

10 At the last hearing two weeks ago, Your Honor
11 discussed the importance of Ms. Bennett showing up at medical
12 appointments, you know, agreeing with treatment, whatnot.
13 The -- that information simply is not here and I don't
14 understand why. And I think that this can be held over for a
15 week or two weeks or whatnot.

16 And one of the reasons that I suggest that is on one
17 of the calls to which I've listened, Ms. Bennett, to the extent
18 it's true has said to an individual that I -- non-criminal
19 counsel at Dickinson, Wright, Jeff Craven has scheduled a
20 surgery for June 22nd, which is a month from now. I -- if that
21 is correct, why isn't that before the Court?

22 THE COURT: Why isn't that before the Court? Is that
23 true?

24 MR. HART: Your Honor, I think Mr. Craven was
25 communicating with Howard University Hospital and recognizing

1 the potential for a release wanted to, at least, tentatively
2 hold a date.

3 THE COURT: Okay. Why aren't you telling me about
4 that then? I mean, you've got a date, you've got a plan, you've
5 got surgery. I have a report here that corroborates follow-up
6 diagnostics. Why am I hearing from government counsel that
7 there is a surgery planned as if this release is a fait
8 accompli? Someone has got to fill me in and be forthcoming
9 about what's going on the defense side. That really is the keys
10 to the kingdom right now. So why am I hearing about this from
11 the government? What exactly is being coordinated to happen in
12 June?

13 MR. HART: Your Honor, Mr. Craven has been in contact
14 with Dr. Coleman, who is -- who the medical records from Howard
15 University hospital were -- she's the person who put in that
16 ASAP order on the diagnostic surgery and then the various other
17 issues in that plan.

18 If you look on page 4 of Exhibit A.

19 THE COURT: Page 4 of Exhibit A, okay.

20 MR. HART: Fourteen of Exhibit A, you see there's an
21 assessment.

22 THE COURT: Okay.

23 MR. HART: And, Your Honor, I know -- and to the point
24 that we start talking about --

25 THE COURT: Wait, wait. Show me where we are for this

1 page 4 of Exhibit A. I'm on, it says -- I counted four in, DJB
2 2987, page 3 of 3. Am I in the right place?

3 MR. HART: No, Your Honor, but to the extent we're
4 about to go into medical records, would it be possible to
5 approach the bench? I know we have people in the courtroom who
6 I don't recognize, Your Honor.

7 THE COURT: That's fine, sure.

8 Ms. Bennett, would you put your earpiece in so you can
9 hear?

10 (Bench conference.)

11 MR. HART: Exhibit A, Your Honor.

12 THE COURT: Let's make sure your client can hear.

13 Ms. Bennett, are you able to hear us?

14 MR. HART: To step back a second, our submission here
15 today was our attempt to provide objective documentation which
16 we were asked to present. We're prepared to discuss these
17 matters, but given the full background, I was just answering
18 your question today because we switched to the government. So
19 we're prepared to talk about this thing, to present this
20 information.

21 What I was trying to avoid doing, at least, in the
22 documentation submitted is a proffer just from the knowledge
23 that I have such as about the scheduled surgery. That's
24 information I am prepared to offer you today.

25 THE COURT: Okay. So, again, I'm sorry, I am not

1 counting angels on the head of a pin. It just seems to me that
2 when asking for a client's release at detention hearing number
3 13, the fact of surgery is pretty much a front and center fact,
4 unless -- and the fact of potential surgery in the event she's
5 released.

6 So without going through the -- just tell me sort of
7 bottom line what the surgery is and what is its purpose.

8 MR. HART: So, the bottom line is that because of the
9 hematoma, the blood in the urine, they have ordered these kind
10 of various medical procedures. That is the diag --

11 THE COURT: Cystoscopy bladder washing.

12 MR. HART: Cystoscopy bladder washing, bladder biopsy
13 bilateral retrograde. That procedure needs to be performed
14 under anesthesia. It's diagnostic surgery.

15 There is possibility that it could be in out-patient
16 form, but there is also possibility that if they go in there and
17 find anything, it then transitions to, so to speak, a more
18 invasive surgery where they then are acting.

19 So -- and then I think Dr. Gerber explained that. So
20 basically, there's real risk to it. It's invasive surgery in
21 that you have to go up through the urethra and there's a lot of
22 risk involved. So, that's what both Dr. Coleman, Dr. Gerber are
23 saying as neurologist needs to happen.

24 Mr. Craven has been in touch with Howard University
25 Hospital, has scheduled an appointment with the surgery to

1 perform this procedure is my understanding around the 21st, 22nd
2 of June, but it's just tentative. And I don't want to come off
3 as presumptuous that we thought Ms. Bennett would be released
4 and have ability to go there, but the point is to hold that date
5 because timing is of the essence. And they are prepared to go
6 forward with that date is my understanding performing that
7 surgery if Ms. Bennett is released. I don't know if she has the
8 ability to go back to Howard University Hospital now that she's
9 in Jessup, because I think the health care provider has changed.

10 THE COURT: Right, that's one of my concerns is I
11 don't think it's the same provider.

12 MR. HART: That's the other indication is that
13 Mr. Craven has been in contact with the new doctor, Wexford, and
14 that person was not a urologist, does not intend to follow these
15 recommendations that have been laid out by Howard University
16 Hospital which our expert has agreed with.

17 And then something is brought up in the government's
18 motion on an out-of-state expert. This isn't a situation where
19 we've presented you some expert who is saying she needs 64
20 surgeries. All he did was come in and looked at the records and
21 said, I agree.

22 THE COURT: I take Dr. Gerber's expert report as
23 really an interpretation of medical records. And to the extent
24 there's corroboration that she needs the diagnostics, she needs
25 the diagnostics and she needs them as quickly as possible. And

1 that's the spirit you're offering them for.

2 MR. HART: Yes.

3 THE COURT: So, here is where I am now that you've
4 explained that. That was very helpful.

5 My information is that Wexford at Jessup has been very
6 difficult to deal with and that it was a Hobson's choice to move
7 Ms. Bennett because where she was, she could not get the level
8 of care that she needed. But now that they moved her, she
9 almost has to go backwards because it's not the same provider.
10 And on top of that, Wexford is difficult.

11 I have also heard and I want to share with you that
12 from the corrections facility standpoint, Ms. Bennett has been
13 compliant. So there hasn't been any instance where she is
14 canceling appointments and not participating in her own care, at
15 least from the institution's standpoint is what I've been told.

16 MR. WINDOM: My concern, Your Honor, is we have no
17 idea what the appointments are or what the care is.

18 THE COURT: You mean at the facility?

19 MR. WINDOM: As I understand it, having gone on site
20 to Wexford, Wexford care, as I understand it she's at that
21 facility.

22 THE COURT: That's my understanding is that she's been
23 moved from Jessup, but to the extent care is provided, it's
24 sounds like --

25 MR. WINDOM: Well, it seems to me it would be easier

1 to get those records by HIPAA form or Court Order, because we're
2 operating in the blind off records that are two months old.

3 THE COURT: Except the records from two months ago
4 suggests she needs diagnostic tests now and that they need to be
5 performed in a surgical setting. And here is my concern -- two
6 concerns. One is now I have to determine who has -- by virtue
7 of the facilities, records and an expert who is just doing a
8 records review a significant enough situation where she needs
9 follow-up surgical diagnostic care. That's one.

10 Two, I'm not losing this trial date, I'm not. So I
11 run the risk of them disadvantaging Ms. Bennett in terms of her
12 care and that is a reason and the very, very restrictive way to
13 release an individual when it cannot be accommodated in
14 combination with the fact that if we don't make some
15 arrangements, we'll be at the mercy of Jessup and Wexford, and
16 we could very well lose the trial date and I can't do that.
17 That's my concern.

18 MR. WINDOM: I understand if she's not given the
19 treatment that she's supposed to be getting and I don't know why
20 she's in an infirmary setting of which counsel is having less
21 ability to meet with her.

22 THE COURT: Well, in terms of that, the meeting is a
23 different aspect and we can talk about that, but my
24 understanding is that while she may be getting more appropriate
25 care where she is, it's harder to get to the bottom of it right

1 now and time is of the essence. So the longer I wait, the
2 harder it is to get this, because what we can do and what I'm
3 considering is if I were to release Ms. Bennett, I'm going to
4 get weekly ex parte updates on her medical care, because I'm
5 going to confirm that she is not playing two ends against the
6 middle on that. So I want to know what appointments she has,
7 who she has them with and that she's followed up and none have
8 been canceled. And she is going to be escorted to those
9 appointments whether by family or by a member of the defense
10 team. So, I want to put things in place where I got my finger
11 on the pulse of what's going on medically.

12 MR. WINDOM: I propose then this: If Your Honor is
13 inclined to release her on restriction, if the surgery isn't
14 until the 21st or 22nd of June, have her released a couple days
15 before that so that she can go to it. And during that time,
16 whatever medical records exist can be obtained. And so even if
17 Your Honor doesn't come back in here and have a hearing,
18 collectively the parties and Your Honor will have all the
19 information that exist right now that for whatever reason isn't
20 before us. And that will -- and that will be plenty of time for
21 those records to appear. That will still set in a date early
22 enough --

23 THE COURT: We then have to discuss some other issues
24 with respect to follow-ups and tests before surgery because that
25 takes time as well as the other piece, which we don't have to do

1 at the bench, which is access to counsel.

2 MR. WINDOM: I agree with the other parts of the --
3 it's just if I had information in terms of does she have to go
4 in the day before, does she --

5 THE COURT: What's that?

6 MR. WINDOM: Does she have to go in the day before?

7 THE COURT: Right. So we can hear from you further
8 on -- I mean, it seems to me that a June 21st-ish date would
9 have some follow-up --

10 MR. HART: There's some sort of pre-op, I imagine, and
11 then I'm not sure what follow-up. I think because of the nature
12 of that --

13 THE COURT: Let's take the next step. If I were to
14 release Ms. Bennett today, what's the next medical step she
15 takes?

16 MR. HART: I mean, the first thing we'd be doing is
17 contacting Howard University Hospital and see if we can get an
18 appointment beforehand with Dr. Coleman and make sure that, you
19 know, everything is in line. I mean, we have a surgery date,
20 but there could be additional work that's been done, blood work
21 that she would receive -- updated blood work sometimes for
22 procedures. So a lot of times that's something that's part of
23 the pre-op process to make sure you're able for the surgery and
24 no other issues have shown up in the last few months.

25 So, I imagine Dr. Coleman may want to see her first

1 and may be time to react to that and still hold the date.

2 MR. WINDOM: Your Honor, this is all noble
3 information. I can't imagine what it might be. Those
4 conversations could be had with defense counsel and the doctor,
5 and present a timeline to Your Honor of exactly what is needed
6 and exactly what is required instead of operating in the blind.
7 I don't think it's fair to anybody at this point.

8 THE COURT: Well, I agree with you on that. I think
9 we should get more of a timeline and it should be a phone call
10 to Dr. Coleman about what are the next steps and what would be
11 first appointment and what does she need to do in advance of
12 June 22nd in terms of pre-op, so we know what it is.

13 MR. HART: I mean, in fairness, Your Honor, we were
14 not going through all the steps because, again, we didn't want
15 to be presumptuous. We were just trying to tentatively hold the
16 surgery date.

17 MR. SPARKS: Your Honor, certainly respect
18 Mr. Windom's position, but all this does is push this whole
19 process back further and further away. So I do think the
20 prudent course of action here is to get her in as soon as
21 possible, perhaps, before the 21st, but request the absolute
22 first day and let her really take control of her medical care
23 right now as opposed to what Mr. Craven has to go and request
24 and get somebody to take her. It would be responsible for us to
25 move this.

1 THE COURT: Let me do this too. This is all assuming
2 that there is a suitable third-party custodian who can
3 accommodate a release that will be exceptionally stringent. It
4 also -- I haven't yet heard from the government on what else, if
5 anything, is of concern in the recorded conversations. And
6 government did raise, at least, on its face some concern about
7 Mr. Bennett. So I need to hear all that before I make an
8 ultimate determination. The medical issue is the only part at
9 the bench.

10 Is there anything else regarding her medical situation
11 that you wish to address before we get into the other aspects
12 of -- that don't need to be at the bench.

13 MR. SPARKS: May I have a moment to check with
14 Ms. Bennett?

15 (Pause.)

16 MR. HART: We were just clarifying. Our position is
17 that the surgery is tentatively scheduled for the 21st, 22nd. I
18 mean, you know, again, I apologize we haven't obtained the
19 records. My understanding from Mr. Craven is we were looking at
20 it from the viewpoint of these specific aspects and they haven't
21 been treated, so we didn't ask for the records just because we
22 would -- we were getting nothing to give to you.

23 So that is the only reason why. We weren't thinking
24 of it in terms of the compliance factor. I did talk to
25 Mr. Ashton from the marshals. He also indicated she has not

1 skipped any appointments since at Jessup. So, I didn't think
2 necessarily compliance was an issue. I thought it was more a
3 issue of evidence of non-compliance.

4 THE COURT: And so regardless of what I do today, what
5 I do want is a follow-up authorization, if you would get medical
6 records, one.

7 MR. HART: From Jessup.

8 THE COURT: Yes. And two, as soon as possible find
9 out from Dr. Gerber what pre-op course of treatment will be.

10 MR. HART: Dr. Gerber?

11 THE COURT: I'm sorry, Dr. Coleman.

12 MR. HART: The one from Howard?

13 THE COURT: Yes, because he's the one whose going to
14 do the surgery.

15 MR. HART: She.

16 THE COURT: She. She's going through Dr. Coleman.

17 MR. HART: At Howard.

18 THE COURT: So then hopefully, it will be nothing but
19 a phone call or two to confirm what the pre-op plan would be.
20 So again, regardless of what I do today versus on another day
21 very soon, those are two pieces of information I would like.

22 MR. HART: It can be a little difficult to get in
23 touch with Dr. Coleman, getting calls, but she will return the
24 call at some point.

25 THE COURT: Then get -- her medical staff has to know

1 what happens pre-op and there's of course -- there's a protocol
2 and so I need to know what the protocol is.

3 MR. HART: Yes.

4 THE COURT: All right. Thank you.

5 (Open court.)

6 THE COURT: All right. I think that resolves, at
7 least, the medical presentation piece of this.

8 Mr. Windom, what else would you like me to know?

9 MR. WINDOM: With respect to if the Court is
10 considering fashioning conditions for release, we just thought
11 it prudent for Your Honor to hear directly from the defendant's
12 father. I know he was here six months ago or whatnot, but
13 things change. So I thought it was prudent for him to say what
14 his schedule is, what his abilities are, whether there's anybody
15 else at home, what their views are, whether they will be
16 assisting in any way if Mr. Bennett has to go to the grocery
17 store, just to get more information.

18 The other reasons I -- that we thought the defense
19 package was unacceptable as we set forth in our filing
20 yesterday. There is one -- we wondered why in the prior Release
21 Order back in ECF 43, back in September, Your Honor had ordered
22 a property bond on the defendant's two penthouses in Maryland to
23 be posted and to be filed -- that agreement to be filed in
24 Montgomery County.

25 It's come to our attention that notwithstanding

1 whether or not that was actually filed with the county, the
2 defendant, Ms. Bennett has put up one of the penthouses for sale
3 without any -- I don't even know how it's possible if in fact
4 there's something in the land deeds that prevent that.

5 It's been on the market three weeks now, since
6 May 4th. It's on the market for two and-a-half million dollars.
7 There appears to be based on records probably 1.9, a million in
8 mortgage on that particular property.

9 Our concern is some sort of evasion of a prior Court
10 Order, which speaks to everything that we've discussed in all of
11 the many hearings.

12 Also our concern is that property as we set forth, the
13 mortgage on that property was paid for in part by fraud money,
14 so there's about 180 grand in fraud money, principal and
15 interest that based on our current assessment was paid toward
16 that mortgage.

17 Also, with Mr. Ulander's awareness of the document, I
18 was looking where in fact the agreement set forth that the
19 property had been filed with Montgomery County and I don't --
20 the record that's on Pacer doesn't reflect that has actually
21 been filed with the clerk in Montgomery County.

22 The record that I have is ECF 34-1, which only has
23 attached to it recordation of the \$1 million unsecured bond in
24 the County and not the property.

25 THE COURT: So not the proof that Ms. Bennett through

1 counsel went to land records, filed effectively the court lien
2 and then brought the proof of that back to court here?

3 MR. WINDOM: Yes, ma'am. And I may be reading this
4 wrong, but the only document that's in here as ECF 34-1 --

5 Hand it up if you like.

6 THE COURT: Okay. Mr. Ulander is handing me something
7 as well, so let's see what I got here.

8 All right. It looks as if Judge -- Magistrate Judge
9 Sullivan issued an order to record agreement to forfeit property
10 in September of 20 -- September 25th, 2017. Attached to that
11 appears to be the -- a receipt from the Recording Department,
12 Clerk of Circuit Court for Montgomery County apparently
13 recording this agreement to forfeit property. And that should
14 still be in place unless it was revoked and released, which I
15 don't believe it ever was.

16 MR. WINDOM: That's right. The catch is there's
17 actually two different agreements. This one reflected here is
18 ECF 34, the million dollar unsecured bond. ECF 35, that's the
19 property bond.

20 THE COURT: Well, I have here --

21 Mr. Ulander, which is it that you just handed up to
22 me?

23 THE DEPUTY CLERK: That's 34-1 attached to the --

24 THE COURT: 34-1, Order to Record Agreement to Forfeit
25 Property. And this is, though, Attached Agreement to Forfeit

1 Property to Secure Performance of a Bail Bond in the Land
2 Records of Montgomery County. That's this order and then I have
3 a receipt attached. And then a second Order to Record Agreement
4 to Forfeit Property, very similar, Defendant's Appearance Bond
5 and Agreement to Forfeit Property. And then behind that,
6 another Receipt of Recordation.

7 MR. WINDOM: Yes, ma'am, but the only order that's
8 attached to all of this is the million dollars unsecured bond.
9 The order about the property is not attached to this document
10 that I can see.

11 THE COURT: Okay, okay. When you -- let me see,
12 Mr. Windom, what you have.

13 MR. WINDOM: Yes, ma'am. I'll put it on the Elmo.

14 (A discussion was held off the record.)

15 MR. WINDOM: So this is ECF 34-1, page 1.

16 THE COURT: Okay.

17 MR. WINDOM: And it's Order to Record Agreement to
18 Forfeit Property. It doesn't specify what the property is. So
19 you go to the second page, it has receipts again that property
20 is not specified and there's timestamps there 2:34 and 2:37.

21 Page 3 of this appears to be the same as page 1. I
22 did not see a difference. And again, it doesn't identify the
23 property. Page 4 is the unsecured bond. It's the million
24 dollar cash bond here.

25 THE COURT: Right.

1 MR. WINDOM: Now, page -- back page of that, page 6, I
2 guess is part of the validation that this was filed, but the
3 overall point is we don't have a record that ECF 35, which is
4 the property forfeiture, has been filed with the clerk of the
5 court, which is troubling.

6 Wasn't this counsel, but it was past counsel.

7 But that coupled with the fact that apparently she's
8 trying to sell her penthouse, which otherwise the Court has --

9 THE COURT: I haven't released it.

10 MR. WINDOM: That's fine.

11 THE COURT: Okay. What's going on with this?

12 MR. HART: Your Honor, Mr. Craven, my colleague did
13 speak with Janet Fletcher in the clerk's office and said that
14 the one million unsecured bond and the property lien on
15 5610 Wisconsin Avenue are still in place and available, and that
16 absent any instruction from the Court, those will remain in
17 place.

18 THE COURT: I'm sorry, that the -- say that again?

19 MR. HART: That the \$1 million unsecured bond and the
20 property lien on 5610 Wisconsin Avenue, Chevy Chase, Maryland,
21 they're still in place and available. And that absent any
22 instruction from the Judge, they remain in place.

23 THE COURT: But there were two condos for which,
24 right? There's -- I can't remember the condo numbers, but
25 there's two separate condominiums that had property bonds

1 associated with them, correct?

2 MR. HART: I think so, Your Honor. I believe they're
3 both at that address. My guess is that's what Mr. Craven meant
4 by writing that. I can confirm with him if you want.

5 THE COURT: Then why is one up for sale when I haven't
6 released that bond and how is that -- how is that happening?
7 What was the plan here?

8 MR. HART: Your Honor, I think the -- you know, if I
9 may actually speak with one of my colleagues.

10 THE COURT: Sure, if someone just tell me, I mean,
11 this shouldn't be that complicated. The house is either on the
12 market or it isn't with this Court's lien, essentially, against
13 it. So, no one has explained to me why no one came to me and
14 said, we're attempting to liberate this asset. It's encumbered
15 by the Court.

16 We know you had a robust conversation months ago with
17 the fact that it's going to stay encumbered in part because it
18 is the product of tainted assets. And actually, we had a very
19 specific conversation about this in order to liberate funds to
20 pay for retained counsel to make sure that we were only
21 liberating funds that are not tainted, and that's a separate
22 issue. But we had this conversation about this property wasn't
23 going anywhere, so why is it up for sale?

24 MR. HART: Your Honor, if I may have a moment?

25 THE COURT: You may.

1 MR. HART: And just real quick, there was a clarity
2 that the property lien bond was inadvertently recorded at ECF
3 34, but it should be ECF 35.

4 THE COURT: I know, but can anybody explain to me
5 why -- if what you're saying is, we confirmed, Judge, we
6 expected that the property bond would still be in the land
7 records, it would still be on record with the Court. Why is the
8 house up -- why is the condo up for sale? What's the plan here?

9 MR. HART: One moment, Your Honor.

10 (Pause.)

11 MR. HART: Your Honor, my understanding is that the
12 properties are entering foreclosure. And so while those secured
13 liens are there, the thought process was they could secure a
14 better price if they put it up for sale now, but the secured
15 lien that the Court has would still be in place and any proceeds
16 would then be transferred to the Court to be held in trust.

17 THE COURT: I don't think it works that way. It
18 doesn't work that way unless you ask for me to work it that way.
19 The whole purpose of -- when I use the word "lien" maybe I'm
20 using the wrong term. It's to stop people from selling out from
21 under the court the bond that's posted.

22 That's just the common sense version of this, which
23 means if you then go ahead and post it and I got to find out
24 from the government, it stinks. It just smells bad, because --
25 especially against the backdrop of the hearings that we've had

1 historically, some -- if I'm not mistaken, I could be, but some
 2 from your firm was in the room when we discussed that this
 3 property from the government's view is tainted and they would
 4 otherwise seek restraint. But the fact that the Court put a
 5 stop on conveying this asset was in some ways a practical
 6 reassurance that this asset wasn't going to be dissipated.

7 So, let me ask, is the government going to belt and
 8 suspender this in some way?

9 MR. WINDOM: The discussion last time was that if the
 10 Court did not have the order in place that we would most likely
 11 seek to forfeit under 18 U.S.C. 983, which is the extensive
 12 court process to do that.

13 Since Your Honor had the lien in place, which any good
 14 title company would find, but as we know, not all of them are
 15 good, they could ask through the title inspection and couldn't
 16 sell.

17 It all comes down to, my view, the defense put forth a
 18 package that didn't include property that previously was on a
 19 previous order, was on a previous order. And there's got to be
 20 a reason that they didn't include that property in their package
 21 and then we find out --

22 THE COURT: Oh, you mean to me, this most recent
 23 package?

24 MR. WINDOM: There's got to be a reason that's not in
 25 there and I have no -- I can't discern a reasonable --

1 MR. HART: It's not in there because it's still in
2 place. That's already a standing order. This is an additional
3 \$1 million unsecured bond.

4 MR. WINDOM: And I come back to the fact that at least
5 according to the records that are available on Pacer, there is
6 not that property agreement, the forfeiture agreement entered on
7 the docket. 34-1 does not record the penthouse -- records the
8 million dollars unsecured bond.

9 Every time we come back into this court, there's more
10 questions.

11 THE COURT: Right, and I thought it wasn't included in
12 the package because I hadn't released the bond already.

13 MR. HART: That's correct, Your Honor.

14 THE COURT: Then why is the house up for sale? I
15 mean, that's just -- that's really -- you're just -- it's
16 almost, it's hard to wrap my brain around without saying
17 something that is akin to, you're insulting my intelligence.

18 So, Mr. Sparks, you're now standing. Do you wish to
19 be heard?

20 MR. SPARKS: Yes, Your Honor. My understanding is
21 that this is not on the public market for sale. They're trying
22 to figure out privately what the value of this is with the
23 notion that the idea that it is now in foreclosure and the value
24 of the house, the condominium would be decreased, but this is
25 not, is my understanding, being publicly marketed for sale.

1 THE COURT: Well, the government found out somehow.
2 How did you find out?

3 MR. WINDOM: You've got the Internet on that computer.
4 Type in the address. You got 30 pictures of the apartment 2495
5 and outside, see a wrap-around view.

6 THE COURT: Are you serious? Zillow isn't public?
7 No, seriously, is it really on Zillow?

8 MR. WINDOM: As of 11:30 last night.

9 MR. SPARKS: I have no knowledge why this is publicly
10 listed for sale.

11 THE COURT: Well, Mr. Ulander is on top of it.

12 5610 Wisconsin Avenue, PH-5C.

13 MR. WINDOM: Yes, Your Honor.

14 THE COURT: 2.4 million and change. Go tour this
15 home, schedule a tour.

16 MR. WINDOM: The larger problem for me, Your Honor, in
17 all of this, whether with respect to medical conditions or to
18 any of these conditions of release is the constant use of the
19 phrase, "my understanding is". There are documents that can
20 help everybody here and they're not shown to the Court.

21 THE COURT: It's got a MLS number. I mean, this is
22 Zillow. This is silly. No, it's Redfin, this one is Redfin.

23 So, I come back to --

24 So, government, if you're going to file your
25 forfeiture, you're going to have to do what you're going to have

1 to do, because I don't have any assurance that this is being
2 done above board.

3 I mean, there's a lien. We had these conversations.
4 Counsel who are here today, take note. We had these
5 conversations months ago about this property. And if you didn't
6 hear it firsthand, you should have read the transcripts. I
7 couldn't have been clearer. The government couldn't have been
8 clearer. We consider -- government considers these assets to be
9 tainted. I consider these assets to be assets effectively of
10 the court to secure Ms. Bennett at the time.

11 You don't go putting assets like this up for sale
12 without asking, so that I'm on notice as the Court and the
13 government is on notice so that if they wish to actually pursue
14 forfeiture proceedings, they can.

15 And then you ask me to trust you, the whole defense
16 team with a release package. And the only reason I'm
17 considering it is because Ms. Bennett's health is at issue.
18 Otherwise, you all would not be getting one minute of my time on
19 this.

20 So, I don't -- I would go ahead and do what you need
21 to do, Mr. Windom, to preserve your position. Be clear, I'm not
22 releasing this property if I release Ms. Bennett. So let's --

23 Anything else with respect to the property,
24 Mr. Windom?

25 MR. WINDOM: No, ma'am. And all the other reasons

1 that we didn't think the package was sufficient is in my filing.

2 THE COURT: If I release Ms. Bennett, there will be no
3 travel in the tri-state area. This will be extremely tight,
4 which does warrant, I think, my talking to Mr. Bennett again.

5 If you're willing to chat with me, Mr. Bennett, yes?

6 Okay. I see both Mr. Bennett, Ms. Bennett's brother
7 and Mr. Bennett, her father. Is it Mr. Bennett, dad who would
8 be the third-party custodian again?

9 MR. HART: Yes.

10 THE COURT: Okay. Mr. Bennett, would you mind coming
11 up to the podium so you and I can talk?

12 MR. BENNETT: You mind if I join him?

13 THE COURT: Sure.

14 How are you, sir?

15 R. BENNETT: Pretty good.

16 THE COURT: Okay, good. It's good to see you again.

17 R. BENNETT: Ma'am?

18 THE COURT: It's good to see you again.

19 R. BENNETT: Thank you.

20 THE COURT: Can you hear me?

21 R. BENNETT: Acoustics in here are terrible for me. I
22 can't seem to modulate the -- I hear what you're saying, but
23 it's just -- go ahead.

24 THE COURT: Okay. You tell me if you can't hear me.
25 I'll try to be as -- can you hear me now?

1 R. BENNETT: Now I can.

2 THE COURT: Okay. I am considering releasing your
3 daughter to your custody again, but under much more restrictive
4 conditions. First, if I release her to your home, it has to be
5 with the promise that there is no Internet available in your
6 home. Are you willing to remove the Internet?

7 R. BENNETT: I'm not sure I know what Internet is.

8 S. BENNETT: He doesn't know what that is.

9 Can you define it? Is that the cable into the house?

10 THE COURT: It is for computer access to things like
11 Google, email. If you're looking at websites on a computer or
12 on phones, that's what I'm considering to be Internet.

13 S. BENNETT: Is it adequate if we just pull out the
14 modem?

15 THE COURT: The modem, yes.

16 S. BENNETT: I'll take them with me out of the house.

17 THE COURT: And remind me of your first name again,
18 sir, the son.

19 S. BENNETT: Steele.

20 THE COURT: And Mr. Robert Bennett.

21 So, Mr. Steel Bennett, would you be willing to assist
22 your parents in making sure that their home is free of the
23 Internet, because you and I know what that means, right?

24 S. BENNETT: I have one other question.

25 My mother owns a cellphone and that's technically

1 access to the Internet.

2 THE COURT: Correct. So, it would have to be --

3 S. BENNETT: I mean, the one reason I hesitate is my
4 mother runs her own business. She has a job. She travels in a
5 car. I don't want her to be without a phone.

6 THE COURT: Oh, no, she -- absolutely, she can have a
7 phone. We can do it either one of two ways. She can take the
8 Internet off of her phone or it's password protected and I'm
9 assured by you under oath if I need to put you under oath,
10 although I don't think I have to, that your mother is not giving
11 your sister access to her phone and that her password remains
12 with her and no one else.

13 S. BENNETT: I understand.

14 THE COURT: That's one.

15 Two, your daughter is to have no phone access that is
16 connected to the Internet. So to the extent anybody in the
17 family sees Ms. Bennett using the Internet and I think,
18 Mr. Steele Bennett, you know what I mean, right?

19 S. BENNETT: Yes.

20 THE COURT: On the phone, Googling, texting, emailing,
21 that that would be a violation of my release condition. As her
22 third-party custodian and I might --

23 Mr. Steel Bennett, you tell me, I might make you both
24 third-party custodians because it sounds like you are still
25 active in your family's life, in your parents' life.

1 S. BENNETT: I'm active in making sure my parents are
2 understanding everything.

3 THE COURT: So to the extent you're there and you
4 observe any violation which I am discussing, would you be
5 willing to act as a set of eyes for the Court and report to the
6 Pretrial Services office if you see any violations in this
7 regard?

8 S. BENNETT: Yes, ma'am.

9 THE COURT: The next thing, your daughter, your sister
10 may have medical appointments that she has to attend and my
11 release order would allow release only for medical appointments,
12 nothing else.

13 Attorneys would come to meet with your daughter at
14 your house, Mr. Bennett. Are you okay with that?

15 R. BENNETT: Are you saying she can take herself to
16 the doctor, to the hospital?

17 THE COURT: No, we're not there yet. We're going to
18 get to there. The first question is, will it be all right with
19 you if in your house she has her attorney meetings, that she can
20 have them at the house, she doesn't have to go to their office?

21 R. BENNETT: Sure.

22 THE COURT: Okay. Next question. When Ms. Bennett
23 has to go to medical appointments, she will have to be
24 accompanied by either a family member or a member of her defense
25 team. Are you willing to work with Ms. Bennett and her defense

1 team to make sure that part of my order can be fulfilled?

2 S. BENNETT: Yes, ma'am.

3 THE COURT: Mr. Windom, do you have any follow-up
4 questions for either Mr. Steel or Mr. Robert Bennett?

5 MR. WINDOM: Yes.

6 Mr. Bennett, how old are you, sir?

7 R. BENNETT: 87.

8 MR. WINDOM: And what's your schedule during the day?
9 You stay at the house?

10 R. BENNETT: A lot of television, coffee at the local
11 pub.

12 MR. WINDOM: Coffee at the local pub?

13 R. BENNETT: And gym three times a week.

14 MR. WINDOM: Do you go get coffee at the local pub
15 every day?

16 R. BENNETT: The days that I go to the gym, no, I
17 don't go.

18 MR. WINDOM: So, you go out -- when do you go out for
19 coffee?

20 R. BENNETT: About 8:30.

21 MR. WINDOM: When do you come back from coffee?

22 R. BENNETT: 9:30, quarter of ten.

23 MR. WINDOM: What about the gym? When do you go to
24 the gym?

25 R. BENNETT: 9:30, sometimes 11.

1 MR. WINDOM: And how long are you at the gym for?

2 R. BENNETT: 9:30 to 11.

3 MR. WINDOM: What other occasions do you leave the
4 house?

5 R. BENNETT: I don't.

6 MR. WINDOM: Who is present at your home when you're
7 at the gym or getting coffee?

8 R. BENNETT: I have no idea. My wife might be there,
9 she may be gone. She plays tennis.

10 S. BENNETT: She also has a job and sits on a few
11 boards, so she's out of the house a lot.

12 MR. WINDOM: And, sir, thank you.

13 Sir, for you, you have a full time job?

14 S. BENNETT: Yep.

15 MR. WINDOM: And you do not live at the address?

16 S. BENNETT: No.

17 MR. WINDOM: Where do you live?

18 R. BENNETT: Herndon.

19 MR. WINDOM: How far is that?

20 R. BENNETT: Twenty-five minutes.

21 MR. WINDOM: How often do you go your parents' home?

22 S. BENNETT: Once a week, once every two weeks, unless
23 something else needs to be taken care of.

24 MR. WINDOM: You travel?

25 R. BENNETT: Sometimes to Boston.

1 MR. WINDOM: And what's your work schedule?

2 R. BENNETT: Full-time, plus I'm a dad, so I'm
3 full-time and dad.

4 MR. WINDOM: Do you know your wife's view, sir, on
5 whether your daughter should be staying with you? Do you know
6 your wife's view on whether your daughter should be staying with
7 you?

8 R. BENNETT: It's all right.

9 S. BENNETT: We talked to her about it.

10 R. BENNETT: She's her daughter.

11 MR. WINDOM: Thank you.

12 THE COURT: Okay. Thank you both. I appreciate it.

13 Anything from the defense that you wish for me to know
14 from either Mr. Steel Bennett or Mr. Robert Bennett?

15 MR. HART: Nothing particular, Your Honor, but just to
16 the extent there's any concern about there being gaps in time
17 where there would be no custodian there, the defense team can
18 fill those gaps if Your Honor wish.

19 THE COURT: I do appreciate that. I think between
20 electronic monitoring with 24-hour lockdown, the fact that
21 you're there, Mr. Bennett, for most hours of the day except for
22 a couple of hours in the morning and the fact that defense
23 counsel is willing, perhaps, maybe you can all schedule that
24 your meetings take place to some degree to overlap in the
25 mornings, it sounds like we can have abundant coverage.

1 And it sounds like, you know, Ms. Bennett, you are
2 very fortunate to have so many individuals who are willing to be
3 there for you, especially -- I guess my last question is, to the
4 extent Ms. Bennett needs follow-up medical care that requires
5 additional family attention and my hope for you is that you
6 don't, but to the extent there's any in-patient surgical
7 procedures and convalescence that needs to take place at home,
8 are you all willing and able to assist in that regard?

9 R. BENNETT: I think so, yes.

10 THE COURT: All right. Thank you. I appreciate that.
11 You all can have a seat.

12 Any additional information that either side wishes to
13 share with me?

14 MR. WINDOM: Nothing additional, Your Honor. I would
15 just ask that to the extent you are considering releasing
16 Ms. Bennett, that you do it in an extremely narrow timeframe
17 justified only by whatever medical urgency exist. And as we
18 said before, if that is not today, that is three weeks out,
19 unless there's additional information coming up. And if
20 follow-up from that appointment, then perhaps extend it. But if
21 there's not, there's no basis for her to be out.

22 THE COURT: Well, let me hear from defense counsel as
23 to any other grounds for release or reasons that you wish for me
24 to know.

25 MR. HART: Well, Your Honor, there are additional

1 reasons beyond health. We are having significant difficulties
2 getting access to Ms. Bennett at Jessup. My understanding
3 having spoken to Mr. Ashton from the marshal's office that
4 Jessup is not a facility that's designed for pretrial detainees.

5 Mr. Craven has been in touch with the warden about
6 getting an opportunity to have consistent access to Ms. Bennett.
7 I think we requested five days a week to have the opportunity to
8 be able to come in as there is a significant amount of
9 discovery. At this point, they're only allowing us two visits a
10 week up to four hours.

11 We also need to be filing something in writing ahead
12 of time before we can see her. She also has minimal access, if
13 any, to a telephone during business hours. And so, while the
14 opportunity when she was in DCDOC we could go there, I believe,
15 24 hours a day, she did have significant phone access. She's
16 now much further away from our office and has extremely limited
17 opportunities to meet with us. So that itself is also causing
18 significant problems.

19 So to the extent that -- as we're moving closer to
20 this trial date and the defense has plans and wants to have this
21 trial in September, the fact that we can lose two to three weeks
22 to essentially obtain records that are supporting what we are
23 proffering to the Court today and what is here, that just
24 further causes delay and concern.

25 So, we would ask that she be released today. We can

1 provide that follow-up information to the Court about the pre-op
2 procedures that would be in place. And we would be moving to
3 meet with the doctor as soon as possible and potentially even
4 move up that surgery date, because the sooner that happens, the
5 better for everyone.

6 MR. WINDOM: Your Honor, if they move up the surgery
7 date if that's even possible, these things are scheduled far
8 out. That's a fact.

9 THE COURT: And that's my concern is that we only
10 have, even by the defense proffer, the earliest date, we only
11 have three and-a-half to four weeks to keep the date in place.
12 And we all know it's not so simple to just walk into surgery on
13 any given morning.

14 So what I'm thinking about doing is the following:
15 One, everything has to be in place in terms of the electronic
16 piece of this. So that may not happen today in terms of I want
17 pretrial to have access to the home and confirm for me that
18 there is no Internet access for Ms. Bennett; that the electronic
19 monitoring has indeed been installed and that miss --
20 Mrs. Bennett is aware that her phone is to be a million miles
21 away from Ms. Dawn Bennett and password protected.

22 And we might need to do that in writing. We may need
23 to affirm. She needs to affirm to me under penalties of perjury
24 that she understands that that is the condition under which her
25 daughter will be released and so she faces consequences if she

1 violates that condition in any way. I want all that in place
2 first.

3 And then what I'm also going to require is weekly
4 status reports from defense as to the update on the medical
5 records that we discussed and the update on the medical
6 appointments that are going to be put in place immediately.

7 And if I ascertain any playing two ends against the
8 middle; meaning once Ms. Bennett is released, suddenly these
9 medical issues are not so important and not so pressing, we'll
10 have another hearing and Ms. Bennett will be stepped back
11 because that will be a fraud on the Court.

12 So with those two things in place and with the looming
13 trial date in September and defense needing access, I think that
14 we have some reasonable assurances in place, because I'm not
15 taking my eye off of this ball.

16 MR. WINDOM: What I would request, Your Honor, is that
17 any dates prior to June 22nd, the date we discussed, there's
18 knowable facts and the defense can glean that from the doctor, I
19 would expect a day we would have all the information so Your
20 Honor can narrowly tailor a timeframe in which she is released
21 for medical reasons. If there's no requirement that she has any
22 medical --

23 THE COURT: Except I also have the companion problem
24 of defense counsel not having access to Ms. Bennett. And that
25 has been verified that this is just not a facility that provides

1 the kind of access that typical pretrial detention facilities
2 provide. And you know, my senses tell me, unless I am on
3 this -- I need to be on this for this trial date to take place
4 in September as defense requested and this is an important piece
5 of that.

6 MR. WINDOM: Is there a proffer from the defense as to
7 how often they would actually meet with her if she were outside
8 of the facility?

9 THE COURT: Well, I would imagine it's going to be
10 more than what you've requested from the facility which was five
11 days a week. Am I right about that, Mr. Hart?

12 MR. HART: Your Honor, we intend to be frequently
13 meeting with Ms. Bennett.

14 THE COURT: Yeah, I would think that -- well, I don't
15 want to invade the defense province. I accept their
16 representations as officers of the court. We do know that this
17 case is significant in terms of its discovery. So, to the
18 extent -- and I -- it is my understanding that they had far
19 greater access to Ms. Bennett when she was at CTF than they do
20 now.

21 So I don't really know beyond the fact that I've
22 already gotten a proffer that they'd be willing to meet with her
23 when Mr. Bennett is otherwise occupied and that's several
24 mornings a week, that that gives me some assurance these
25 meetings will happen.

1 And, frankly, they should happen early and often,
2 because all depending on how Ms. Bennett -- how seriously she
3 takes her release conditions, we -- we've been down this road
4 before. And to the extent she violates, she's back at Jessup.
5 And at that point, I can't -- I cannot protect Ms. Bennett from
6 herself anymore.

7 So given -- if I'm making myself clear, get your
8 visits in, make your record that Ms. Bennett can be trusted by
9 this Court and that counsel is operating in good faith that they
10 need this time with her.

11 MR. WINDOM: Thank you, Your Honor.

12 THE COURT: Thank you.

13 All right. Let me be clear, the only reason I have
14 seriously entertained this is because I have gotten independent
15 corroborating evidence that Ms. Bennett has a legitimate medical
16 situation that needs the follow-up diagnostic care. And if she
17 were to stay in the facility in which she's at, well, she would
18 ultimately receive good care. There's no doubt about that. It
19 just may not be with the timeline that we're facing.

20 It may not be with the kind of flexibility that we
21 need, because right now this Court has set aside five solid
22 weeks for trial, the entire month of September at the
23 defendant's vigorous urging. And so, to keep that trial
24 calendar as -- inviolate in my view, I am going to release
25 Ms. Bennett on what are going to be even more onerous conditions

1 than before.

2 And I'm going to thank pretrial in advance for staying
3 on this one for me.

4 So, in addition to all of the conditions that were
5 previously in place and which, Ms. Bennett, I'm going to go over
6 many, if not all of them with you now. You're going to review
7 them in writing and with your counsel present and sign them
8 before we all leave today.

9 They're going to be the following: That you're going
10 to have regular -- pretrial will have regular access to you.
11 Reporting will happen with pretrial coming to you. I will not
12 have you going to pretrial, because you will be on 24-hour
13 lockdown with electronic monitoring and absolutely no Internet
14 access whatsoever.

15 The bond for both units 21C and 21D, Penthouse 5C,
16 Penthouse 5E, that's how it's written currently right now; 5610
17 Wisconsin Avenue, Chevy Chase, Maryland 20815 are still in place
18 100 percent interest. And it is incumbent upon defense counsel
19 to confirm that I have the proper paperwork filed with this
20 court to perfect the court lien against the property.

21 And you are to take no action whatsoever to liquidate
22 or convert that asset or any other asset without advance
23 permission of the Court.

24 Your passport has already been seized. You are to
25 obtain no new passport. You'll have no travel whatsoever except

1 to medical appointments. And those medical appointments will be
2 shared with pretrial in advance and you will be accompanied by
3 either one of your close family members that includes your
4 brother, your mother or your father or a member of your defense
5 team.

6 I'm going to ask that both Mr. Robert Bennett and
7 Steel Bennett act as third-party custodians. I understand,
8 Mr. Steel Bennett, you do not live in your parents' home, but
9 again, you have assured me that you'll be yet another set of
10 eyes for the Court and that if you witness any violation, you
11 and your dad will be sure to inform pretrial as third-party
12 custodians are to do, and I thank you for that. Pretrial will
13 have the proper paperwork for you to execute.

14 We're going to put the same condition in place that we
15 had before, that there is only one cellphone that Ms. Bennett
16 can use. The number must be provided to pretrial. Pretrial may
17 inspect that cellphone and any records associated with it. You
18 may not use anyone else's phone for any reason whatsoever.

19 You may not open up any new bank accounts of any
20 nature, open up any new lines of credit without prior pretrial
21 approval and may not engage directly or indirectly in any
22 activities involving financial transactions and/or any other
23 person without prior pretrial approval.

24 Once weekly in writing you'll submit, defense counsel,
25 ex parte a status report to me of Ms. Bennett's outstanding

1 medical appointments and medical status, so I know weekly that
 2 she is pursuing her health in good faith. In addition, the
 3 records that we discussed, I expect a report on when I should
 4 get those records in your first status report, which will be
 5 due --

6 Let's see, we are -- it's Thursday. Let's do this
 7 every Tuesday. So between now and Tuesday, I'm expecting good
 8 faith efforts to get all of the questions that Mr. Windom has
 9 rightfully raised answered for me.

10 Are there any other conditions or any clarification
 11 that pretrial needs that I have not already addressed?

12 MR. RIDGEWAY: Your Honor, I just want to be clear
 13 about the -- you mentioned that the paperwork, that Pretrial
 14 Service will have paperwork for the third-party custodians to
 15 sign. Normally, the first sheet, the release order that Your
 16 Honor is going to be issuing, the third-party custodian -- so I
 17 guess, is that what you're referring to. Normally the
 18 third-party custodian signs that first page.

19 THE COURT: Correct, yes.

20 And so we're clear, Mr. Ridgeway, Ms. Bennett is not
 21 going to be released until pretrial, whether it's you or your
 22 Virginia colleagues, pay a home visit, confirm that there is no
 23 Internet, get from Mrs. Bennett in writing under penalties of
 24 perjury, can work with defense counsel, that she's not going to
 25 give her daughter access to the phone and that you have the one

1 phone that Ms. Bennett can use without Internet access with the
2 phone number and access to it. Until all of that is in place
3 and the electronic monitoring is in place, she is not to be
4 released.

5 MR. RIDGEWAY: And this phone, are you saying it can
6 be a cellphone, like a flip phone.

7 THE COURT: Yes, exactly. I think they still make
8 them. Flip phones that you can call people without getting on
9 the Internet?

10 MR. RIDGEWAY: And the -- and, Your Honor, to be
11 clear, you said you want this is in writing from --

12 THE COURT: Mrs. Bennett?

13 MR. RIDGEWAY: From Mrs. Bennett, okay.

14 THE COURT: Yeah. So that, Mr. Hart, what I expect is
15 that Mrs. Bennett in an affidavit will attest that she
16 understands she is not to give her daughter access to her
17 cellphone. Her cellphone must be password protected and that
18 her daughter will not have access directly or indirectly with
19 her password or her phone.

20 Once she signs that document under penalties of
21 perjury and makes it available to you, Mr. Ridgeway, that
22 condition is satisfied.

23 MR. RIDGEWAY: Okay. Thank you, Your Honor.

24 THE COURT: All right. Thank you.

25 MR. WINDOM: Perhaps, I didn't hear it, Your Honor,

1 but paragraph 8-K, the no contact.

2 THE COURT: Oh, yes, of course. Still in place, avoid
3 all contact and that means no contact directly or indirectly
4 with any person who is or may become a victim or potential
5 witness in this investigation or prosecution, including but not
6 limited to any investor, lender and/or individual identified in
7 the District of New Mexico Order setting conditions of release
8 which is incorporated herein. Are we crystal clear on that?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay.

11 MR. WINDOM: The other issue with respect to the
12 cellphone that the defendant can use. Certain or maybe all
13 cellphones she can log in online and actually check the call log
14 history.

15 I don't know what the defense at this date is getting
16 for the defendant, but I don't want to be in situation where the
17 defendant hands Mr. Ridgeway a phone and says, check my call log
18 and she's voided out 30 phone numbers of calls she's made.
19 There should be an independent way to verify that.

20 THE COURT: I believe pretrial will have access not
21 only to the cellphone, but to the records. So I expect that
22 there will be -- I didn't want to get into the weeds of how
23 pretrial executes this, but I would imagine it would be a
24 release to obtain the cellphone records so that pretrial could
25 have access to the actual calls that were made regardless of

1 whether the call log were deleted.

2 Am I getting that right, Mr. Ridgeway?

3 MR. RIDGEWAY: Your Honor, we normally don't have that
4 kind of access, so I'm not sure how we could gain that access.

5 THE COURT: If Ms. Bennett were to release those
6 records to you, that works.

7 MR. RIDGEWAY: Yeah, so -- yeah.

8 THE COURT: Essentially, signing an authorization.

9 MR. RIDGEWAY: Yeah. So, I guess we'll make contact
10 with whatever the provider ends up being.

11 THE COURT: Yes, because in the last order, I believe
12 that you had access to inspect cellphone and any records.

13 MR. RIDGEWAY: Mm-hmm, yes, Your Honor.

14 THE COURT: And so the way I would imagine that
15 inspection really would take place in any -- with any
16 meaningful -- with any meaning is that you actually have direct
17 access to the records.

18 MR. RIDGEWAY: Right.

19 And, Your Honor, there are a couple other conditions
20 that we're noticing were previously ordered and I just want to
21 make sure that they continue on this new order is the surrender
22 passport.

23 THE COURT: Yes.

24 MR. RIDGEWAY: Obtain no new passport or travel
25 documents.

1 THE COURT: That's right. No new passport, no new
2 travel documents.

3 MR. RIDGEWAY: And, Your Honor, I don't unfortunately
4 recall off the top of my head why this was in here, but there is
5 also the refrain from possessing a firearm, destructive device
6 or other dangerous weapons.

7 I do know that when the defendant was previously
8 residing with her father that the father had taken out a firearm
9 from the residence and we verified that was removed from the
10 residence. So again, just ordering that condition and we'll
11 make again sure that the firearm is still out of the residence.

12 THE COURT: Okay. So, Mr. Bennett, if you have
13 removed the firearm from your residence, you're going to do so
14 again?

15 R. BENNETT: I can do that.

16 THE COURT: Okay, thank you.

17 MR. WINDOM: Yes, the -- as I said, it's in the
18 papers. It's utterly meaningless, but is the million dollar
19 unsecured bond still in place?

20 THE COURT: So, I can, but you're right. The last
21 time the thing I was wrestling with was I wasn't willing to cash
22 in on that bond and deprive, in the event of conviction, the
23 victims of any assets that would then be given to the court
24 instead of the victims. So, in the -- in light of the history
25 of this case, I'm really not sure it makes sense to reinstitute

1 that piece of it.

2 The property bonds are still in place and they will
3 stay in place. Do you see any value in reinstituting a cash
4 bond that isn't paid up front that I'm not willing to take away
5 from victims, if indeed Ms. Bennett is -- especially in light of
6 all the other conditions of which I have exhausted my creativity
7 on?

8 MR. WINDOM: I don't see any value in it. The only
9 value I see is already recorded in the land records. And so
10 since it's already in place, somehow in Montgomery County, ECF
11 34-1, I guess, should stay in place since it's on the books
12 there with full understanding of --

13 THE COURT: Yeah, I'm not going to reinstitute it
14 because of that, but I'm not sure in my professional life has
15 anyone been released on such stringent conditions. So it's the
16 hope that we're not going to have to even discuss bond, property
17 bonds because all the other conditions will have been fulfilled
18 before Ms. Bennett is released.

19 Any questions, Mr. Hart?

20 MR. HART: Yes, Your Honor, just briefly. The defense
21 counsel had raised the possibility of bringing some sort of
22 ability to access our network where that's where our discovery
23 is stored and given the amount of it, the ability to upload from
24 a laptop is not feasible. You know, laptops don't carry this
25 kind of storage rate. So, are we going to be allowed to bring

1 some sort of mobile Internet device that we can take with us and
2 not --

3 THE COURT: Yes, for you as counsel to access your
4 discovery to review it with Ms. Bennett, it's your Internet,
5 it's your access. You take it with you when you leave.

6 Yes, I would consider that not to be violating my
7 release order.

8 MR. HART: Thank you.

9 THE COURT: You're welcome.

10 Anything else that we need to review?

11 MR. WINDOM: No, ma'am. I would just ask that while
12 the defendant is viewing a copy of it that we be able to view a
13 copy of it as well.

14 THE COURT: Yes, okay, but you all are on the same
15 page, because I know it's a complicated one.

16 And again, Ms. Bennett is not to be released until
17 pretrial verifies that all of these conditions are in place.

18 And pretrial, if you would do me the courtesy of
19 letting me know that that process has actually concluded and
20 Ms. Bennett is going to be released, I do appreciate that.

21 MR. RIDGEWAY: Absolutely, Your Honor.

22 THE COURT: Okay. Let me make sure that the written
23 order --

24 (Pause.)

25 THE COURT: Okay. Could I get Mrs. Bennett's first

1 name.

2 R. BENNETT: Sue.

3 THE COURT: Sue, S-U-E?

4 R. BENNETT: Yes.

5 THE COURT: All right. I have reviewed the written
6 conditions. Mr. Ulander will submit copies to you all in a
7 moment.

8 I expect defense counsel to review these conditions
9 very carefully with Ms. Bennett and have her sign them before
10 you leave today.

11 MR. HART: Your Honor, if we have a brief moment,
12 would it be all right if I step back to speak with Mr. Ridgeway
13 just about some of the details here?

14 THE COURT: Sure. Do you need me any further? Do you
15 wish to do that while I'm still on the bench?

16 MR. HART: No.

17 THE COURT: Okay. All right, great.

18 All right. Anything further before I leave you all
19 for the day?

20 MR. WINDOM: No, ma'am. Thank you.

21 THE COURT: All right. Ms. Bennett, it's an
22 opportunity. Make the best of it and good luck with your
23 follow-up appointments.

24 (Recess at 4:25 p.m.)

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CERTIFICATE OF COURT REPORTER

I, Linda C. Marshall, certify that the foregoing is a
correct transcript of the record of proceedings in the
above-entitled matter.

/s/

Linda C. Marshall, RPR
Official Court Reporter

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